

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

HEALTHIER CHOICES
MANAGEMENT CORP.,

Plaintiff,

v.

PHILIP MORRIS USA, INC. and PHILIP
MORRIS PRODUCTS S.A.,

Defendants.

Case No. 1:20-cv-04816-TCB

DEFENDANTS' MOTION TO FILE UNDER SEAL

COME NOW, Philip Morris USA, Inc., and Philip Morris Products S.A., defendants herein, and request the Court to permit them to file under seal their Notice of Filing Declarations and Exhibits in Support of Defendants' Motion for Attorneys' Fees under 35 U.S.C. § 285 filed on December 16, 2021 [Docket No. 58], including the Declarations of counsel and Exhibits attached to the Declarations.

The Exhibits to the Declarations include the detailed time and billing entries of defendants' counsel. The Exhibits contain highly confidential and commercially sensitive information relating to defendants' counsel's representation and defense of this action, including information which implicates the attorney-client privilege and

work product doctrine. Such information should be shielded from public disclosure, and good cause exists for maintaining a seal on the Exhibits.

Federal Rule of Civil Procedure 26(c)(1)(G) permits the Court to seal documents containing “trade secret or other confidential research, development, or commercial information.” The party asserting confidentiality must show that “good cause exists to protect the information from disclosure.” *Holiday Hosp. Franchising, LLC v. J&W Lodging, LLC*, 1:17-CV-01663-ELR, 2021 WL 2980586, at *8 n.4 (N.D. Ga. July 12, 2021) (citing *Reid v. Viacom Int'l Inc.*, 1:14-cv-1252-MHC, 2016 WL 4157208, at *2 (N.D. Ga. Jan. 25, 2016)). “Courts in this Circuit have found that good cause exists regarding a company's financial data and records.” *Id.* (citations omitted). This includes documents like the Exhibits here, which summarize billing invoices setting forth defendants’ counsel’s representation of defendants in this action. *See Capital Sec. Sys., Inc. v. NCR Corp.*, 2018 WL 300549, at *1 n.1 (N.D. Ga. Jan. 5, 2018) (Duffey, J.) (finding it “appropriate to seal” a “document summarizing billing invoices submitted in connection with [a party’s] Motions for Attorney’s Fees”, even in the absence of a protective order, and noting that the Court has previously permitted sealing of “similar document[s]”).

Accordingly, Defendants request the Court to permit them to file their Notice of Filing Declarations and Exhibits under seal.

Dated: January 18, 2022

Respectfully Submitted,

s/ Henry D. Fellows, Jr.

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*Counsel for Defendant Philip Morris
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7.1(D) CERTIFICATION

Counsel for the Defendant Philip Morris USA, Inc. hereby certifies that this document has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1(C).

/s/ Henry D. Fellows, Jr.
Henry D. Fellows, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on January 18, 2022, a copy of the foregoing was filed with the Clerk of Court using CM/ECF which will send electronic notification of such filing to all counsel of record.

/s/ Henry D. Fellows, Jr.

Henry D. Fellows, Jr.

*Counsel for Defendant Philip Morris
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